IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 3569 OF 2005

Prabhakar Nivrutti Lokhande ...Applicant

Vs.

The State of Maharashtra ...Respondent

Shri.A.P. Mundargi with A.D.Avhad for the Applicant.
Shri.K.V. Saste A.P.P. for the Respondent.

CORAM : A. S. OKA, J.
DATED : JUNE 28, 2005.

P.C.:

1. Heard Shri. Mundargi, learned Counsel appearing for the Applicant and Shri. Saste, learned A.P.P. for the State. This Application for bail is by the Accused No.1. The charge against the Applicant and one Alka Ramayane is under section 302 read with section 34 of the Indian Penal Code.

2. The prosecution case is that the Accused alongwith the deceased were travelling in a car. They were allegedly going to Trimbakeshwar. The case of the prosecution is that the Accused murdered the deceased.

3. Shri. Mundargi, learned Counsel for the Applicant submitted that the statements of the villagers indicate that there the car met with an accident in which the Accused and the deceased were travelling and

infact both the Accused sustained injuries in the said accident. He submitted that it is obvious that someone else assaulted the deceased. He submitted that the chargesheet is filed and there is no reason to keep the Applicant in custody.

4. The learned A.P.P. has strongly opposed this Application by pointing out relevant material on record. I have referred to the said material in later part of this order.

5. At this stage it appears that the fact that the Accused and the deceased were last seen together is not disputed. There is recovery of bloodstained knife and bloodstained clothes at the instance of the Applicant. Moreover, the body of the deceased was found near the road near the spot at which the car allegedly met with an accident. The Post Mortem Report shows that apart from other injuries there are two stab wounds on the person of the deceased. There is one incise wound on the body of the deceased.

6. The statement of the witnesses indicate that the co-accused had injury only on her hand. The case of the Applicant that the third person assaulted the deceased cannot be accepted as there is no complaint

lodged to that effect by the Applicant who was travelling with the deceased. The prosecution case is that the Applicant and co-accused called the villagers for help on the groud that their car was stuckup as a result of the accident. At that time the villagers who came there found that the deceased was lying on the western side of the road. The prosecution is relying upon extra-judicial confession by the Applicant. Material on record shows that there is an existence of motive. The knife which was recovered at the instance of the Applicant had bloodstains. The report of the Chemical Analyser is awaited.

7. In my view, there is enough material on record to indicate the involvement of the Applicant in an offence under section 302 of the Indian Penal Code. The nature of the offence is brutal. This is not the case where the Applicant can be enlarged on bail.

8. Hence, the Application is rejected.

JUDGE